

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6158**

**BILL NUMBER: SB 80**

**NOTE PREPARED: Jan 26, 2015**

**BILL AMENDED: Jan 15, 2015**

**SUBJECT:** Taxation of Internet Access.

**FIRST AUTHOR:** Sen. Yoder

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State

**Summary of Legislation:** It provides that neither the state nor a political subdivision may impose, assess, collect, or attempt to collect a tax on Internet access or the use of Internet access.

**Effective Date:** July 1, 2015.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** *Summary* - The federal Internet Tax Freedom Act prohibits states from taxing Internet access. The moratorium on Internet taxation is scheduled to expire on October 1, 2015. If the federal government extends the Internet Tax Freedom Act, this bill will have no fiscal impact.

If the federal moratorium is rescinded, Internet access would be taxable in Indiana under the Utility Receipts Tax (URT) but not the Sales and Use Tax (SUT). This bill could reduce revenue deposited in the state General Fund by about \$14.1 M to \$26.9 M annually beginning in FY 2016 if the Internet Tax Freedom Act expires.

[The estimate assumes that both the URT and SUT will continue to be imposed on the total sales price of telecommunication services if a provider does not separately state the receipts of taxable and nontaxable services.]

**Additional Information** - The URT is imposed on all entities providing utility services at retail. The tax rate is 1.4% of the gross receipts from all utility services. Taxable utility services include electrical energy, natural gas, water, steam, sewage, and telecommunications services. Under IC 6-2.3-1-13, a

telecommunication service is defined as “the transmission of messages or information by or using wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.” Prior to 2007, the URT and SUT definition of telecommunication services was the same, and a letter of finding interpreted telecommunications services to include internet access.

The revenue estimate was computed using data from the U.S. Census Bureau and the Revenue Technical Committee Forecast (December 18, 2014) for FY 2015 to FY 2017. Some Internet access charges are already part of the URT base because of price bundling. If a provider does not separately state the receipts of taxable and nontaxable services, the URT is imposed on the total sale price. The range in the estimate is based on assumptions of the prevalence of bundled pricing. The lower bound estimate assumes 64% of the sales of Internet access are bundled with other telecommunication services. The upper estimate assumes only 32% of the Internet access service charges are bundled with other telecommunication services. The bundling ratios were derived after analyzing the financial statements of three major telecommunication providers. [The estimate also includes additional revenue received from the Utility Services Use Tax.]

The retail sale of telecommunication services are taxable under SUT, but Internet access is not defined as a telecommunication service (IC 6-2.5-1-27.5). Internet access was exempted from the SUT definition of telecommunication services on January 1, 2008. However, SUT is also imposed on Internet access if the charge is not stated separately on a customer’s billing statement.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of State Revenue.

**Local Agencies Affected:**

**Information Sources:** *The Telecommunications Act of 1996*, 47 U.S.C.; *Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999*, Title XI - *The Internet Tax Freedom Act*, Public Law; Federal Communications Commission, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 02-77, adopted March 14, 2002, *Consolidated and Further Continuing Appropriations Act of 2015*, H.R. 83, <https://www.congress.gov/bill/113th-congress/house-bill/83/text>; Department of State Revenue, Indiana Register - Letter of Findings Number: 07-0173, 04-2007173.LOF; Department of State Revenue, Indiana Register - Letter of Findings Number: 40-20140076, 04-20140076.LOF; Department of State Revenue, Indiana Register - Letter of Findings Number: 08-0417, 40-20080417.LOF; U.S. Census Bureau, *2013 Annual Services Report - Table 4*, Released November 14, 2014. Indiana Revenue Forecast 2015-2017, released December 18, 2014; Comcast, 3rd Quarter Trending Schedule, released October 23, 2014; Time Warner Cable, 3rd Quarter Trending Schedule, released July 31, 2014; Verizon Communications, Financial and Operating Information, released October 21, 2014

**Fiscal Analyst:** Heath Holloway, 232-9867.